

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0606**

September 16, 2010

The Honorable Arne Duncan  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue  
Washington, DC 20202

Dear Secretary Duncan:

I write to you today regarding proposed regulations published in the *Federal Register* on June 18, 2010, that change the definition of institutional eligibility under the Higher Education Act of 1965. Specially, I am asking that you consider eliminating provisions in Section 600.9 that expand state oversight of private colleges and universities that enroll students receiving federal financial aid.

The proposed regulations, if made final, will mandate a one-size-fits-all federal definition of state authorization. Each state will have to redesign its authorization process to include "adverse action." This presumably means individual states will have to establish guidelines, standards and requirements against which institutions will be judged, approved or denied. Such changes would be at best duplicative of the accreditation process and at worst a pretext for government interference. Under these regulations, some states agencies or legislatures may continue to show restraint in respecting the independence of higher education. Others, however, could become deeply involved in setting course requirements, quality measures, faculty qualifications and various mandates about how and what to teach.

In the state of Colorado, the Colorado Commission on Higher Education (CCHE) provides authorization for private colleges, universities, seminaries, and proprietary schools to operate within the state using a process that is transparent and nonpolitical. The state does not interfere with the curriculum, philosophy or character of its private universities and colleges and relies upon the accreditation process for a determination of quality. The Commission only terminates authorization in the event that the institution of higher education fails to gain accreditation or loses accreditation. In other words, the state uses accreditation as the basis for ongoing monitoring and trusts that institutions in good standing with their accreditation bodies need no further oversight or intrusion.

These regulations could force Colorado to adopt more intrusive policies. Not only would our private institutions of higher education have to comply with increased state oversight here in Colorado, colleges and universities with a presence in other states will have to comply with additional and potentially conflicting requirements. The regulations, as currently written, imply

that each institution of higher education will have to receive authorization from every state in which they have a presence. While large institutions may be able to bear the cost of compliance, smaller institutions may find it too burdensome to serve students in more than one state. The cost of accreditation is already significant. It is unreasonable to add additional compliance costs to these institutions which are already in good standing with their accreditation bodies.

Until now, the federal government has recognized the importance of independent private colleges and universities and has struck an important balance that preserves institutional independence while providing a mechanism for assuring accountability for student aid funding. History shows that existing state and federal regulatory authority over private institutions of higher education, in addition to private legal recourse, actions by accrediting organizations and market mechanisms (consumer and investor choices) is sufficient to penalize those organizations that act outside of the law. Requiring additional state oversight duplicates accreditation, levies additional compliance costs on institutions of higher education, and could potentially compromise their independence.

For these reasons, I am asking that you eliminate the proposed regulations in Section 600.9 from the final version. If you would like to discuss this matter further with me please contact me at 202-225-7882.

Thank you in advance for your consideration of my request.

Sincerely,

A handwritten signature in black ink that reads "Mike Coffman". The signature is fluid and cursive, with a long horizontal line extending to the right.

Mike Coffman  
Member of Congress